

Food and Nutrition Service, USDA

§ 245.7

and retained on file at the School Food Authority.

(Sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758))

[48 FR 12510, Mar. 25, 1983, as amended at 49 FR 26034, June 26, 1984; 52 FR 19275, May 22, 1987; 55 FR 19240, May 9, 1990; 56 FR 32950, July 17, 1991; 56 FR 33861, July 24, 1991; 64 FR 50744, Sept. 20, 1999; 64 FR 72474, Dec. 28, 1999]

EFFECTIVE DATE NOTE: At 64 FR 72474, Dec. 28, 1999, § 245.6a was amended by removing the words “of food stamp households that provided food stamp case numbers” and add the words “of food stamp, FDPIR or TANF households that provided a food stamp or TANF case number or FDPIR case number or other identifier” in their place; in the seventh sentence of paragraph (a); by revising paragraph (a)(2)(i), the second sentence of paragraph (a)(2)(iv), the fourth sentence of paragraph (a)(2)(v), the heading and first three sentences of paragraph (a)(3); by adding a sentence at the end of paragraph (a)(5); and by revising the second sentence of paragraph (b)(3), effective Jan. 27, 2000. For the convenience of the user, the superseded text follows.

§ 245.6a Verification requirements.

(a) * * *

(2) *Notification of selection.* * * *

(i) Section 9 of the National School Lunch Act requires that unless the child's food stamp or AFDC case number is provided, households selected for verification must provide the social security number of each adult household member;

* * * * *

(iv) * * * These efforts may result in a loss or reduction of benefits, administrative claims or legal actions if incorrect information was reported; and * * *

(v) * * * Verification of eligibility is not required of households when the determination of eligibility was based on documentation provided by the State or local agency responsible for the administration of the Food Stamp Program, FDPIR or TANF Program, as described in § 245.6(b).

* * * * *

(3) *Food stamp or AFDC recipients.* On applications where households have furnished food stamp or AFDC case numbers, verification shall be accomplished either by confirming with the local food stamp or welfare office that each child, for whom application was made and a number provided, is a member of a currently certified food stamp household or AFDC assistance unit; or by obtaining from the household a copy of a cur-

rent “Notice of Eligibility” for Food Stamp or AFDC Program benefits or equivalent official documentation issued by the food stamp or welfare office which confirms that the child is a member of a currently certified food stamp household or AFDC assistance unit. An identification card for either program is *not* acceptable as verification unless it contains an expiration date. If it is not established that the child is a member of a currently certified food stamp household or AFDC assistance unit, the procedures for adverse action specified at § 245.6a(e) shall be followed.

* * * * *

(b) *Sources of information.* * * * (3) * * * Information concerning income, household size or food stamp/AFDC eligibility maintained by other government agencies to which the State agency, School Food Authority, or school can legally gain access may be used to confirm a household's income, size or receipt of benefits. * * *

* * * * *

§ 245.7 Hearing procedure for families and School Food Authorities.

(a) Each School Food Authority of a school participating in the National School Lunch Program, School Breakfast Program or the Special Milk Program or of a commodity only school shall establish a hearing procedure under which:

(1) A family can appeal from a decision made by the School Food Authority with respect to an application the family has made for free or reduced price meals or for free milk, and (2) the School Food Authority can challenge the continued eligibility of any child for a free or reduced price meal or for free milk. The hearing procedure shall provide for both the family and the School Food Authority:

(i) A simple, publicly announced method to make an oral or written request for a hearing;

(ii) An opportunity to be assisted or represented by an attorney or other person;

(iii) An opportunity to examine, prior to and during the hearing, any documents and records presented to support the decision under appeal;

(iv) That the hearing shall be held with reasonable promptness and convenience, and that adequate notice

§ 245.8

7 CFR Ch. II (1–1–00 Edition)

shall be given as to the time and place of the hearing;

(v) An opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;

(vi) An opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(vii) That the hearing shall be conducted and the decision made by a hearing official who did not participate in making the decision under appeal or in any previously held conference;

(viii) That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;

(ix) That the parties concerned and any designated representative shall be notified in writing of the decision of the hearing official;

(x) That a written record shall be prepared with respect to each hearing, which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the parties concerned of the decision of the hearing official; and

(xi) That the written record of each hearing shall be preserved for a period of 3 years and shall be available for examination by the parties concerned or their representatives at any reasonable time and place during that period.

(b) *Continuation of benefits.* When a household disagrees with an adverse action which affects its benefits and requests a fair hearing, benefits shall be continued as follows while the household awaits the hearing and decision:

(1) Households that have been approved for benefits and that are subject to a reduction or termination of benefits later in the same school year shall receive continued benefits if they appeal the adverse action within the 10 day advance notice period; and

(2) Households that are denied benefits upon application shall not receive benefits.

(44 U.S.C. 3506; sec. 803, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758))

[Amdt. 6, 39 FR 30339, Aug. 22, 1974, as amended at 47 FR 746, Jan. 7, 1982; 48 FR 12511, Mar. 25, 1983]

§ 245.8 Nondiscrimination practices for children eligible to receive free and reduced price meals and free milk.

School Food Authorities of schools participating in the National School Lunch Program, School Breakfast Program or Special Milk Program or of commodity only schools shall take all actions that are necessary to insure compliance with the following nondiscrimination practices for children eligible to receive free and reduced price meals or free milk:

(a) The names of the children shall not be published, posted or announced in any manner;

(b) There shall be no overt identification of any of the children by the use of special tokens or tickets or by any other means;

(c) The children shall not be required to work for their meals or milk;

(d) The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different time;

(e) When more than one lunch or breakfast or type of milk is offered which meets the requirements prescribed in §210.10, §210.15a, §220.8 or §215.2(1) of this chapter, the children shall have the same choice of meals or milk that is available to those children who pay the full price for their meal or milk.

[Amdt. 6, 39 FR 30339, Aug. 22, 1974]

§ 245.9 Special assistance certification and reimbursement alternatives.

(a) A School Food Authority of a school having at least 80 percent of its enrolled children determined eligible for free or reduced price meals may, at